

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**IN RE: ARC AIRBAG INFLATORS
PRODUCTS LIABILITY LITIGATION**

MDL No. 3051

Case No: 1:22-md-03051-ELR

**SUPPLEMENTAL DECLARATION OF RONNY LÖWA IN SUPPORT OF
DEFENDANT BAYERISCHE MOTOREN WERKE
AKTIENGESELLSCHAFT'S REPLY IN SUPPORT OF ITS MOTION TO
DISMISS PLAINTIFFS' CORRECTED CONSOLIDATED CLASS ACTION
COMPLAINT FOR LACK OF PERSONAL JURISDICTION PURSUANT
TO FED. R. CIV. P. 12(b)(2)**

SUPPLEMENTAL DECLARATION OF RONNY LÖWA

I, Ronny Löwa, pursuant to 28 U.S.C. § 1746, under penalty of perjury under the laws of the United States of America, declare and affirm that the following statements are true and correct to the best of my knowledge, information, and belief:

1. My name is Ronny Löwa. I am over the age of eighteen (18) and competent to make this Declaration. The facts stated below are in all things true and correct to the best of my knowledge, information, and belief.

2. I am a duly authorized representative and employee of Bayerische Motoren Werke Aktiengesellschaft ("BMW AG"). I am currently the Head of Sales Steering, Market Germany for BMW AG, a title I have held since 2022. Prior to this, I was BMW AG's regional area manager for the USA and for Canada, a position I held for nearly 4 years. I have been employed by BMW AG since 2002. As regional area manager, I was responsible for coordinating the exchange between headquarter functions at BMW AG and the various BMW Group national sales entities in the Americas, including BMW of North America, LLC ("BMW NA"). A key focus of this role is to ensure that core requirements of our American BMW Group national sales entities are understood and supported by BMW AG, e.g., for purposes of future product offerings in these markets, as well as ensuring sufficient product allocation to meet consumer demand. Accordingly, I have an understanding of the structure and business operations, policies, and procedures governing the daily

operations of BMW AG, especially in the USA and Canada regions that are in my area of responsibility. The facts stated in this declaration are personally known to me largely as a result of my years of employment at BMW AG. To ensure accuracy, I have additionally personally verified the facts stated herein with the responsible departments at BMW AG. I have also confirmed as part of my preparation for this declaration that, to extent information stated herein is based on my knowledge in my prior position as Regional Area Manager for the United States and Canada, each of these facts as stated herein are still current and accurate.

3. I provide this Supplemental Declaration in support of BMW AG's Reply in Support of its Motion to Dismiss Plaintiffs' Corrected Consolidated Class Action Complaint ("CCAC") Pursuant to Federal Rule of Civil Procedure 12(b)(2) for Lack of Personal Jurisdiction ("Reply") and in response to facts set forth in Plaintiffs' Opposition to BMW AG's Motion to Dismiss for Lack of Personal Jurisdiction ("Opposition"). I have personally reviewed the Opposition and understand the facts set forth therein by Plaintiffs therein.

4. The "BMW Group" is not an official legal entity. Rather, the term is used to collectively (and informally) refer to a number of different entities and brands. BMW AG, BMW Manufacturing Co., LLC ("BMW MC"), and BMW NA are *some* of the entities that fall under the collective and generic "BMW Group" label. This informal "BMW Group" reference has no legal existence.

Distribution of Cars and Vehicle Sales in the U.S.

5. BMW AG sells vehicles it manufactures and assembles to BMW NA on an “*ex works*” basis.

6. BMW AG also purchases fully-assembled BMW or MINI motor vehicles from other entities with assembly plants located in, for example Brazil, South Africa, and Austria. For vehicles assembled by BMW MC, the vehicle purchases take place in designated foreign trade zones.

7. BMW AG sells the motor vehicles that it manufactures to distribution entities that then distribute those motor vehicles in over 150 countries. BMW NA in the United States is one such distribution entity.

8. BMW NA purchases vehicles from BMW AG on an “*ex works*” basis and assumes title to these vehicles, as applicable, either in designated foreign trade zones or during transport on the high seas for vehicles manufactured for example in Germany, Austria, and South Carolina, and at the ports of shipment, Panagua and Durban, for vehicles manufactured in Brazil and South Africa, respectively. BMW NA is responsible for transporting the vehicles manufactured in Germany, Austria, Brazil and South Africa from those manufacturing sites or ports to the United States and for customs clearance and customs duty payments. BMW NA is the importer of record for those vehicles. BMW NA, as the legal owner of the assembled vehicles,

is also responsible for transportation of vehicles manufactured by BMW MC from the foreign trade zone to locations in the United States.

9. Only BMW NA controls, directs, and dictates how new BMW and MINI brand motor vehicles are distributed to dealerships throughout the United States. BMW AG does not control, direct, or dictate how BMW NA distributes new BMW and MINI brand vehicles throughout the United States.

Employees and Leadership

10. BMW NA's current CEO, Sebastian Mackensen, is a BMW NA employee. Mr. Mackensen is compensated only by BMW NA. Mr. Mackensen has held no concurrent role within BMW AG while serving as BMW NA's CEO.

11. BMW NA's former CEO, Bernhard Kuhnt, was a BMW NA employee while acting as its CEO. Mr. Kuhnt was compensated only by BMW NA. Mr. Kuhnt held no concurrent role within BMW AG while serving as BMW NA's CEO.

12. Both Mr. Mackensen and Mr. Kuhnt were appointed to their position as BMW NA's President and CEO by BMW (US) Holding Corp.

13. From time-to-time, certain BMW NA employees may be hired by BMW AG to work at BMW AG, and certain BMW AG employees may be hired by BMW NA to work at BMW NA. In these cases, such employees are released from their employment at one entity and are subsequently hired by the other entity. These individuals are paid for their work by only the entity they are working for and their

work product belongs to only that entity. For example, the work product that an employee generates while working for BMW AG is the sole property of BMW AG. And the work product that an employee generates while working for BMW NA is the sole property of BMW NA.

Interactions Between BMW AG and BMW NA

14. BMW AG does not dictate how BMW NA should carry out its tasks as a marketer, distributor, and warrantor of BMW and MINI brand vehicles. BMW AG also does not dictate how BMW NA carries out its day-to-day tasks and functions as a marketer, distributor, and warrantor of BMW and MINI brand vehicles.

15. From time-to-time, interactions might occur between departments at BMW AG, as the manufacturer of BMW and MINI vehicles, and BMW NA, as the United States distributor of those vehicles. Those interactions are for coordination purposes; each company maintains its separate spheres of responsibility. The interactions are not a mechanism by which BMW AG dictates or manages the activities or responsibilities of BMW NA.

16. BMW NA, not BMW AG, decides how to market and advertise new BMW and MINI brand vehicles in the United States. Specifically relating to airbags, BMW AG has never dictated to BMW NA the media, means, or manner by which BMW NA should market or advertise the airbags in the vehicles it sells to United States dealerships.

17. BMW AG does not decide whether a customer's product failure claim should be paid by the customer or by warranty. Those decisions are made exclusively by BMW NA and/or the local dealerships at which customers present their vehicles for repair, in accordance with the warranty manual for the given vehicle.

Online Content and Press Releases

18. The website www.bmw.com is accessible globally, but does not contain any content directed at U.S. consumers. When visitors to www.bmw.com select the United States as their home country, they are re-directed to a website maintained by BMW NA and hosted in the United States, *i.e.*, www.bmwusa.com. BMW AG does not maintain a U.S.-facing website, or create or place online advertisements or other online content, for either new or used cars, that targets consumers in the United States.

19. I understand that Plaintiffs filed several exhibits in support of their Opposition consisting of U.S. Press Releases (e.g., Exhibits 1, 4, 8, 9, 12, 13, 14, and 18). I have reviewed these press releases and to the extent necessary, conferred with BMW AG colleagues who may have personal knowledge as to them or the Press Release issuance process in general. BMW NA is responsible for the preparation and issuance of Press Releases directed at U.S. consumers regarding

BMW vehicles. BMW AG did not issue the Press Releases mentioned in these Exhibits.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief, and that this declaration was executed on February 28, 2025 in Munich, Germany.



Ronny Löwa